

**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2769**

EXAMINATION REPORT  
OF  
CITY OF MITCHELL  
LAWRENCE COUNTY, INDIANA  
January 1, 2007 to December 31, 2007



**FILED**  
03/03/2009



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## OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Mark H. Kern Kim Leonard George James	01-01-04 to 09-28-07 09-29-07 to 12-31-07 01-01-08 to 12-31-11
Mayor	Morris W. Chastain Daniel Terrell	01-01-04 to 12-31-07 01-01-08 to 12-31-11
President of the Board of Public Works and Safety	Morris W. Chastain Daniel Terrell	01-01-07 to 12-31-07 01-01-08 to 12-31-08
President of the Common Council	Kenneth Allen Everett Ferrell Dwight Moore	01-01-07 to 12-31-07 01-01-08 to 11-03-08 11-04-08 to 12-31-08
Superintendent of Utilities	Roger Duncan	01-01-07 to 12-31-08



# STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS  
302 WEST WASHINGTON STREET  
ROOM E418  
INDIANAPOLIS, INDIANA 46204-2769

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## INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE CITY OF MITCHELL, LAWRENCE COUNTY, INDIANA

We have examined the financial information presented herein of the City of Mitchell (City), for the period of January 1, 2007 to December 31, 2007. The City's management is responsible for the financial information presented herein. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the financial information presented herein and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the financial information referred to above presents fairly, in all material respects, the financial information of the City for the year ended December 31, 2007, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

The Schedule of Capital Assets and Schedule of Long-Term Debt, as listed in the Table of Contents, are presented for additional analysis and are not required parts of the basic financial information. They have not been subjected to the examination procedures applied to the basic financial information and, accordingly, we express no opinion on them.

STATE BOARD OF ACCOUNTS

December 3, 2008

CITY OF MITCHELL  
SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES  
ALL GOVERNMENTAL, PROPRIETARY, AND FIDUCIARY FUND TYPES  
As Of And For The Year Ended December 31, 2007

	Cash and Investments 01-01-07	Receipts	Disbursements	Cash and Investments 12-31-07
Governmental Funds:				
General	\$ 62,773	\$ 1,126,378	\$ 1,326,422	\$ (137,271)
Motor Vehicle Highway	15,167	319,198	336,289	(1,924)
Local Road and Street	100	26,517	52,428	(25,811)
Park and Recreation	(8,470)	112,087	143,736	(40,119)
Law Enforcement Continuing Education	11,041	2,400	-	13,441
Cemetery	6,250	-	-	6,250
Donations	2,365	700	-	3,065
Urban Development	20,415	444,262	210,817	253,860
Housing and Rehabilitation	26,343	184,234	193,201	17,376
Downtown Revitalization	3,053	-	-	3,053
Transportation	(44,809)	70,831	123,175	(97,153)
Fire Donations	4,802	-	-	4,802
Police D.A.R.E.	4,955	-	-	4,955
Community Development	23,167	-	-	23,167
Police Officer Reserve	4,134	-	-	4,134
Community Day of Caring	10,154	550	1,074	9,630
Park Community Deposits	225	2,200	2,200	225
Youth Center	-	374	-	374
Cumulative Capital Improvement	11,025	16,041	5,415	21,651
Cumulative Capital Park	1,021	17,792	10,796	8,017
Cumulative Building and Fire Fighting Equipment	32,919	-	-	32,919
TIF Redevelopment Bond - Hamilton Blvd.	-	4,552,773	2,986,640	1,566,133
Cumulative Capital Development	30,896	-	6,550	24,346
Proprietary Funds:				
Water Utility - Operating	225,606	1,540,541	1,528,146	238,001
Water Utility - Bond and Interest	9	220,814	220,141	682
Water Utility - Depreciation	185,060	-	-	185,060
Water Utility - Customer Deposit	42,413	7,525	8,067	41,871
Water Utility - Bond Proceeds ECA	615,394	108,826	370,975	353,245
Water Utility - Capital Projects	241	-	-	241
Wastewater Utility - Operating	1,082,969	416,575	681,291	818,253
Wastewater Utility - Customer Deposit	29,731	7,500	11,224	26,007
Wastewater Utility - Depreciation	-	20,000	-	20,000
Wastewater Utility - Capital Projects	-	-	100,903	(100,903)
Wastewater Utility - Reserve	142,612	-	-	142,612
Fiduciary Funds:				
Police Officers' Pension	290,148	34,014	54,416	269,746
Cemetery Perpetual Care	75,759	15	-	75,774
Payroll	(73,958)	1,969,159	1,966,612	(71,411)
Totals	<u>\$ 2,833,510</u>	<u>\$ 11,201,306</u>	<u>\$ 10,340,518</u>	<u>\$ 3,694,298</u>

The accompanying notes are an integral part of the financial information.

CITY OF MITCHELL  
NOTES TO FINANCIAL INFORMATION

Note 1. Introduction

The City was established under the laws of the State of Indiana. The City provides the following services: public safety (police and fire), highways and streets, culture and recreation, public improvements, planning and zoning, water, wastewater, urban redevelopment and housing, and general administrative services.

Note 2. Fund Accounting

The City uses funds to report on its cash and investments and the results of its operations on a cash basis. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions or activities.

Note 3. Budgets

The operating budget is initially prepared and approved at the local level. In addition, funds for which property taxes are levied or highway use taxes are received are subject to final approval by the Indiana Department of Local Government Finance.

Note 4. Property Taxes

Property taxes levied are collected by the County Treasurer and are distributed to the City in June and December. State statute (IC 6-1.1-17-16) requires the Indiana Department of Local Government Finance to establish property tax rates and levies by February 15. These rates were based upon the preceding year's March 1 (lien date) assessed valuations adjusted for various tax credits. Taxable property is assessed at 100% of the true tax value (determined in accordance with rules and regulations adopted by the Indiana Department of Local Government Finance). Taxes may be paid in two equal installments which become delinquent if not paid by May 10 and November 10, respectively.

Note 5. Deposits and Investments

Deposits, made in accordance with Indiana Code 5-13, with financial institutions in the State of Indiana at year end were entirely insured by the Federal Depository Insurance Corporation or by the Indiana Public Deposit Insurance Fund. This includes any deposit accounts issued or offered by a qualifying financial institution.

State statute (IC 5-13-9) authorizes the City to invest in securities including, but not limited to, federal government securities, repurchase agreements, and certain money market mutual funds. Certain other statutory restrictions apply to all investments made by local governmental units.

CITY OF MITCHELL  
NOTES TO FINANCIAL INFORMATION  
(Continued)

Note 6. Pension Plan

Public Employees' Retirement Fund

Plan Description

The City contributes to the Indiana Public Employees' Retirement Fund (PERF), a defined benefit pension plan. PERF is an agent multiple-employer public employee retirement system, which provides retirement benefits to plan members and beneficiaries. All full-time employees are eligible to participate in this defined benefit plan. State statutes (IC 5-10.2 and 5-10.3) govern, through the PERF Board, most requirements of the system, and give the City authority to contribute to the plan. The PERF retirement benefit consists of the pension provided by employer contributions plus an annuity provided by the member's annuity savings account. The annuity savings account consists of members' contributions, set by state statute at 3% of compensation, plus the interest credited to the member's account. The employer may elect to make the contributions on behalf of the member.

PERF administers the plan and issues a publicly available financial report that includes financial statements and required supplementary information for the plan as a whole and for its participants. That report may be obtained by contacting:

Public Employees' Retirement Fund  
Harrison Building, Room 800  
143 West Market Street  
Indianapolis, IN 46204  
Ph. (317) 233-4162

Funding Policy and Annual Pension Cost

The contribution requirements of the plan members for PERF are established by the Board of Trustees of PERF.

Note 7. Restatements and Reclassifications

For the year ended December 31, 2006, certain changes have been made to the financial statements to more appropriately reflect financial activity of the City. The following schedule presents a summary of restated beginning balances. Prior period adjustments represent a bond escrow account which should have been excluded from the City's financial information because the debt had been defeased.

<u>Opinion Unit</u>	<u>Balance as Reported December 31, 2006</u>	<u>Prior Period Adjustments</u>	<u>Balance as Restated January 1, 2007</u>
Water Utility - Escrow 2000 Bonds	<u>\$ 3,779,022</u>	<u>\$ (3,779,022)</u>	<u>\$ -</u>



CITY OF MITCHELL  
NOTES TO FINANCIAL INFORMATION  
(Continued)

Note 8. Subsequent Events

On July 18, 2008, the City issued Waterworks Bond Anticipation Note, Series 2008, in the amount of \$1,300,000 with an interest rate of 3.59% due January 18, 2010. The proceeds are to be used for construction of new water utility infrastructure at the City's Hamilton Boulevard Industrial Park.

On August 8, 2008, The City issued Wastewater Promissory Note, Series 2008, in the amount of \$335,000 at an interest rate of 3.59% due January 18, 2010. These proceeds were to be used for construction of new wastewater utility infrastructure for the City's Hamilton Boulevard Industrial Park.

CITY OF MITCHELL  
SUPPLEMENTARY INFORMATION  
SCHEDULE OF CAPITAL ASSETS

For The Year Ended December 31, 2007

Capital assets are reported at actual or estimated historical cost based on appraisals or deflated current replacement cost. Contributed or donated assets are reported at estimated fair value at the time received.

	<u>Ending Balance</u>
Governmental activities:	
Capital assets, not being depreciated:	
Land	\$ 323,918
Infrastructure	141,495
Buildings	1,958,272
Improvements other than buildings	207,021
Machinery and equipment	1,468,056
Construction in progress	<u>148,065</u>
Total governmental activities, capital assets not being depreciated	<u><u>\$ 4,246,827</u></u>
Business-type activities:	
Water Utility:	
Capital assets, not being depreciated:	
Land	\$ 42,600
Buildings	4,309,776
Improvements other than buildings	2,526,806
Machinery and equipment	<u>453,424</u>
Total Water Utility capital assets	<u>7,332,606</u>
Wastewater Utility:	
Capital assets, not being depreciated:	
Land	15,140
Buildings	3,724,230
Improvements other than buildings	1,421,415
Machinery and equipment	<u>204,412</u>
Total Wastewater Utility capital assets	<u>5,365,197</u>
Total business-type activities capital assets	<u><u>\$ 12,697,803</u></u>

CITY OF MITCHELL  
SUPPLEMENTARY INFORMATION  
SCHEDULE OF LONG-TERM DEBT  
December 31, 2007

The City has entered into the following debt:

Description of Debt	Ending Principal Balance	Principal and Interest Due Within One Year
Governmental Activities:		
Capital leases:		
Pool Equipment	\$ 24,482	\$ 13,204
Notes and loans payable	48,065	15,915
2007 TIF Bonds	<u>3,900,000</u>	<u>173,550</u>
Total governmental activities debt	<u>\$ 3,972,547</u>	<u>\$ 202,669</u>
Business-type Activities:		
Water Utility		
Revenue bonds:		
2006 Waterworks refunding revenue bonds	<u>\$ 5,765,000</u>	<u>\$ 654,093</u>

CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS

CONDITION OF RECORDS

The following conditions were present during the examination period.

- (1) Record balances were not reconciled to depository balances.

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

- (2) There were a considerable number of posting errors as detailed below:

(a) Numerous posting errors occurred in all transaction classes examined. Some transactions were found to be posted multiple times, and some were never properly recorded in the records.

(b) During November and December 2007, two of the ninety City receipts tested were not posted to the records.

(c) Correcting entries from the 2006 examination were not posted to the City or Utility funds. For 2007, adjustments to the records in the amount of (\$1,602,217.60) for City funds, (\$96,558.28) for Water Utility funds, and \$20,572.80 for Wastewater Utility funds were necessary to balance records to reconciled depository balances. Additionally, adjustments from the 2006 examination in the amount of \$11,000 for City funds and (\$150,324.39) for Water Utility funds were necessary to balance records to reconciled depository balances.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

- (3) Some transactions were recorded as "negative" receipts and disbursements.

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

DEPOSITS

As stated in the prior report, receipts were deposited later than the next business day. Utility employees balance the Utility cash drawers and remit the collections to the Clerk-Treasurer's office for deposit. The cash drawers were only balanced two to three times a week. Deposits were not made until several days after the collections were remitted to the Clerk-Treasurer's office. City and Utility deposits were reviewed for November and December 2007. In November, five of fourteen Utility deposits and twenty-six of thirty-seven City deposits were not deposited timely. In December, five of nineteen Utility deposits and eleven of fifty-three City deposits were not deposited timely.

Indiana Code 5-13-6-1(d) states: "A city (other than a consolidated city) or a town shall deposit funds not later than the next business day following the receipt of the funds in depositories (1) selected by the city or town as provided in an ordinance adopted by the city or the town; and (2) approved as depositories of state funds."

CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

ERRORS ON ACCOUNTS PAYABLE VOUCHERS (CLAIM)

The following deficiencies were noted on claims during the examination period:

- (1) Twenty of forty-seven claims examined did not contain itemized documentation to support the receipt of goods or services.
- (2) Twelve of forty-seven claims examined were not certified by the Clerk-Treasurer.
- (3) Four of forty-seven disbursements examined could not be traced to a claim or other supporting documentation.

Indiana Code 5-11-10-1.6 states in part:

"(b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

DELINQUENT WASTEWATER ACCOUNTS

As stated in the prior report, delinquent wastewater fees and penalties had not been recorded with the County Recorder nor were they certified to the County Auditor which would result in a lien against the property.

Indiana Code 36-9-23-33 states in part:

"(b) Except as provided in subsection (l), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

- (1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the following:
  - (A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.

CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

- (B) A description of the premises, as shown by the records of the county auditor.
- (C) The amount of the delinquent fees, together with the penalty.
- (2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.
- (c) The officer shall record a copy of each list or each individual instrument with the county recorder. . . ."
- "(e) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the liens that remain unpaid for collection in the next May. . . ."

ORDINANCES AND RESOLUTIONS

The Water Utility has an ordinance (15-2006) concerning fees charged for Fire Protection Services, fire hydrant rental and automatic sprinkler service. However, the Water Utility did not properly charge these fees. Ordinance 15-2006 increased the aforementioned water hydrant and sprinkler fees from \$134 to \$190.28. For the years 2007 and 2008, customers were charged the previous rate for water hydrant and sprinkler service. The Water Utility was advised to issue customers a supplemental billing for the difference.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CREDIT CARDS

The City failed to comply with Ordinance 00-14, Authorizing Use of Credit Cards. The City's Credit Card Ordinance authorizes only the Mayor and Clerk-Treasurer to use the City's credit cards. Examination of cards issued in the City's name indicated cards had been issued to the police chief. Also, supporting documents such as paid bills and receipts were not available for examination. Some payments were made on the basis of a statement or a credit card slip only.

The State Board of Accounts will not take exception to the use of credit cards by a governmental unit provided the following criteria are observed:

- (1) The governing board must authorize credit card use through an ordinance or resolution, which has been approved in the minutes.
- (2) Issuance and use should be handled by an official or employee designated by the board.
- (3) The purposes for which the credit card may be used must be specifically stated in the ordinance or resolution.
- (4) When the purpose for which the credit card has been issued has been accomplished, the card should be returned to the custody of the responsible person.

CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

- (5) The designated responsible official or employee should maintain an accounting system or log which would include the names of individuals requesting usage of the cards, their position, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned, etc.
- (6) Credit cards should not be used to bypass the accounting system. One reason that purchase orders are issued is to provide the fiscal officer with the means to encumber and track appropriations to provide the governing board and other officials with timely and accurate accounting information and monitoring of the accounting system.
- (7) Payment should not be made on the basis of a statement or a credit card slip only. Procedures for payments should be no different than for any other claim. Supporting documents such as paid bills and receipts must be available. Additionally, any interest or penalty incurred due to late filing or furnishing of documentation by an officer or employee should be the responsibility of that officer or employee.
- (8) If properly authorized, an annual fee may be paid.

(Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

PENALTIES, INTEREST, AND OTHER CHARGES

Penalties and interest in the amount of \$147.99 were paid on December 2006 with check 15165 to the Internal Revenue Service (IRS) for the reporting period ending December 31, 2004. Information from the prior examination was not available to determine this amount. Penalties of \$1,006.87, less an overpayment of \$8.62, resulted in \$998.25 being paid on check 13219 to the IRS for the tax period ending September 30, 2007. Penalties of \$1,683.32 and interest of \$2,107.27 were paid with check 17025 and check 17024, respectively, to the IRS for the reporting period ending December 31, 2006.

In some cases, amounts payable to vendors and other suppliers of goods and services are not being paid until three months after the invoice dates.

Penalties and interest totaling \$126.31 were paid to the Chase Cardmember Service (Credit Card) on January 18, 2008, and February 11, 2008, for purchases made during the period of October 3 to November 29, 2007.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Mark H. Kern, former Clerk-Treasurer, was requested to repay the Internal Revenue Service penalties and interest in the amount of \$4,945.45. (See Summary, page 26)

CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

BANK ACCOUNT RECONCILIATIONS

As stated in the prior report, depository reconciliations of the fund balances to the bank account balances were not presented for audit or were incorrect. The bank reconcilements were incorrect and had been incorrect for many years. Issues related to the condition of records, correction of errors, internal controls and timely recordkeeping, this made it difficult for the Clerk-Treasurer to reconcile properly. The outstanding check list had checks that cleared the month prior to the check posting, but not accounted for through the reconciling process properly. Additionally, no reconcilements for September-December 2007 were attempted until February 2008, since the computer system had not been properly closed out at year end. The attempted reconcilements were incorrect due to the numerous uncorrected errors from 2006 and 2007.

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

CUSTOMER DEPOSIT REGISTER

As stated in the prior report, the detailed customer deposit register does not reconcile with the customer deposit amount recorded on the general ledger.

At all times, the manual and computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

BOARD MINUTES

The following board minutes were not available for review during the examination period:

- (1) Board of Works minutes from the September, October, and December 2007 meetings.
- (2) Common Council minutes from the December 2007 meeting.
- (3) Park and Recreation Board minutes for several months during 2007.

Indiana Code 5-14-1.5-4(b) states:

"As the meeting progresses, the following memoranda shall be kept:

- (1) The date, time, and place of the meeting.
- (2) The members of the governing body recorded as either present or absent.
- (3) The general substance of all matters proposed, discussed, or decided.
- (4) A record of all votes taken, by individual members if there is a roll call.
- (5) Any additional information required under IC 5-1.5-2-2.5."



CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

DISTRIBUTION OF GROSS REVENUES TO THE VARIOUS FUNDS

As stated in the prior report, gross revenues were not being distributed to the various Utility funds in accordance with Revenue Bond Ordinance 00-02.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

INTERNAL CONTROLS

As stated in the prior report, controls over the receipting, disbursing, recording, and accounting for the financial activities were insufficient. The bank reconciliements were not always completed timely. Payroll checks dated November 1, 2007, were given out and cleared the bank prior to the posting date (in October 2007). Furthermore, because of this practice, payroll checks clearing prior to the posting date would cause problems with the bank reconciliation as the Clerk-Treasurer did not reconcile these timing differences correctly.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

TIMELY RECORDKEEPING

We noted instances of weeks passing from the time of the original date of the transactions until entry on the records. The Clerk-Treasurer consistently kept the ledger open because work would not be completed timely. For example, reconciliements for September-December 2007 were not completed until February 11, 2008. Furthermore, some receipt numbers were intermingled throughout 2006, 2007 and 2008.

All documents and entries to records should be done in a timely manner to ensure that accurate financial information is available to allow the governmental unit to make informed management decisions and to help ensure compliance with IC 5-15-1-1 et seq., commonly referred to as the Public Records Law. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CORRECTION OF ERRORS

Some corrections and adjustments were made in the records without retaining recommended examination trails. In some instances, corrections to records were unwarranted and incorrect. Additionally, corrections communicated to the City as a result of the 2006 examination were not made to the records.

Receipt and disbursement corrections or other errors should be corrected by memorandum entry with the issuance of a check and receipt to document the flow of the transactions. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

OVERDRAWN FUND BALANCES

The General Fund, Motor Vehicle Highway Fund, Local Road and Street Fund, Park and Recreation Fund, Transportation Fund, Wastewater - Capital Projects Fund, and Payroll Fund were overdrawn at December 31, 2007.

The fund balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

EXPENDITURES OF UTILITY FUNDS

The City disbursed \$177,927.97 of Wastewater Utility funds for sludge removal from settling basins at the water treatment plant. The funds disbursed were \$77,025.19 from the Wastewater Operating Fund and \$100,902.78 from the Wastewater - Capital Projects Fund.

Expenses paid from utility funds should be directly related to the operation of the municipally owned utility. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

OFFICIAL BONDS

The following officials were not properly bonded, nor were any bonds filed in the office of the County Recorder:

Mark H. Kern, Clerk-Treasurer	January 1, 2007 to September 28, 2007
Kim Woods, Clerk-Treasurer	September 29, 2007 to December 31, 2007

Indiana Code 5-4-1-5.1(b) states in part: "Every elected or appointed officer, official, deputy, or employee of a political subdivision . . . shall file the bond in the office of the county recorder. . . ."

Indiana Code 5-4-1-18(a) states in part: "Except as provided in subsection (b), the following city, town, county, or township officers and employees shall file an individual surety bond: (1) City judges, controllers, clerks, and clerk-treasurers. . . ."

APPROPRIATIONS

The records presented for examination indicated the following expenditures in excess of budgeted appropriations:

<u>Fund</u>	<u>Excess Amount Expended</u>
Local Road and Street	\$ 18,634
Motor Vehicle Highway	3,599
Park and Recreation	11,523

CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

Indiana Code 6-1.1-18-4 states in part: ". . . the proper officers of a political subdivision shall appropriate funds in such a manner that the expenditures for a year do not exceed its budget for that year as finally determined under this article."

PAYROLL DEDUCTIONS

The payroll computer system miscalculated several employees' social security withholdings during 2005, 2006, and 2007 causing the City to underpay social security taxes to the IRS. The IRS sent a notice to the City, dated September 29, 2008, indicating that additional taxes were due for the 2006 calendar year in the amount of \$16,833.16. This amount was paid to the IRS on October 6, 2008, with check 17026. The IRS also assessed penalties of \$1,683.32 and interest of \$2,107.27 on the late payment of this amount as detailed in the earlier comment titled "Penalties, Interest and Other Charges."

The current Clerk-Treasurer is in the process of obtaining written agreements with all current employees to correct this issue through future payroll withholdings and is sending certified letters to all former employees notifying them of the errors and requesting repayments.

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Each governmental unit is responsible for compliance with all rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue. All questions concerning taxes should be directed to these agencies. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

SERVICE AND TIME RECORDS

Some employee time, attendance, and service records were not maintained and presented for examination.

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

COMPENSATION AND BENEFITS

Due to a misconception that either one or two weeks of pay was held back when individuals started employment, some employees received extra pay upon leaving employment, which was not included on the salary ordinance or resolution.

The following individuals received additional pay upon leaving employment, which resulted in overpayments of salary:

CITY OF MITCHELL  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

(1) Mark H. Kern, former Clerk-Treasurer, received an overpayment of \$1,762.57.

(2) Kim Leonard, former Clerk-Treasurer, received an overpayment of \$872.00.

(3) Morris W. Chastain, former Mayor, received an overpayment of \$872.00.

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution or salary schedule adopted by the governing body unless otherwise authorized by statute. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Indiana Code 36-4-7-2(c) states: "The compensation of an elected city officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year."

Mark H. Kern, former Clerk-Treasurer, has been requested to repay \$1,762.57. Morris W. Chastain, former Mayor, has been requested to repay \$872.00. Kim Leonard, former Clerk-Treasurer, has been requested to repay \$872.00. (See Summary, page 26)

CITY OF MITCHELL  
EXIT CONFERENCE

The contents of this report were discussed on December 3, 2008, with George James, Clerk-Treasurer; Daniel Terrell, Mayor; and William H. Mullis, City Attorney. The official response has been made a part of this report and may be found on pages 20 through 22.

The contents of this report were discussed on January 2, 2009, with Morris W. Chastain, former Mayor.

The contents of this report were also discussed on January 2, 2009, with Kim Leonard, former First Deputy/Clerk-Treasurer.

The contents of this report were discussed on January 8, 2009, with Mark H. Kern, former Clerk-Treasurer. The official response has been made a part of this report and may be found on pages 23 through 25.



## *City of Mitchell*

*Office of the Mayor*

*Dan Terrell*

December 12, 2008

### RESPONSE TO 2007 AUDIT BY THE CITY OF MITCHELL

As I, Mayor Dan Terrell, read through the audit, it seems to me that the State Board of Accounts has severe criticism of every area of the administration of the City of Mitchell. I agree with every finding of the auditor and applaud his efforts to uncover the many financial discrepancies contained in the financial records of the City of Mitchell for the calendar year 2007.

When I assumed office on January 1, 2008, the City's computers failed to operate properly. It took many hours over several days to correct this problem, and finally the incoming staff was able to access the electronic information maintained by the City. This was only a hint of problems to come.

After being elected but prior to taking office, I met with my predecessor several times and asked questions concerning the City's finances, particularly about the funds required for the various aspects of the Hamilton Boulevard project. He assured me that "the money is there." At the beginning of 2008, I was shocked to find that nearly every account of the City's funds was overdrawn, containing a negative balance in violation of state law. There were insufficient funds in the Payroll Account to pay employees their first 2008 paychecks, so the City was required to borrow money from the Water Department to cover the payroll checks for the very first pay period of 2008. The City's records were in such bad shape that, on the recommendation of the State Board of Accounts, the City hired an independent consultant to straighten out the records to the point the Clerk-Treasurer and his staff could begin to use those records. Once we could use the records, we found that none of the City's bank accounts had been balanced since August 2007. As the State Board of Accounts confirmed, "the bank reconciliements were incorrect and had been incorrect for many years." Because the records were so far behind and incorrect, at the recommendation of Charlie Pride of the State Board of Accounts, on February 11, 2008 the Clerk-Treasurer "started over," allowing the City to operate on current information and records. This process resulted in some of the receipt numbers to be out-of-sequence, but the Clerk-Treasurer had no choice in that matter. He had to begin to manage the City's finances from mid-stream, and he did (and continues to do) a great job in that regard.

Not mentioned in the 2007 audit (because it was mentioned in the 2006 audit) is the City's failure to maintain a bond reserve fund of \$375,675.00 for the Waterworks Refunding Revenue Bonds issued in 2006. The previous Clerk-Treasurer transferred those funds to the Water Operating Account without legal authority, and the City eventually spent those funds. As a result, in 2008 the City was required to borrow money to replenish this reserve fund, and the repayment of this debt will reduce the City's financial ability to meet expenses it would otherwise have been able to pay. In effect, the unauthorized transfer of this fund has effectively reduced the City's budget by \$375,675.00. Also not mentioned in the 2007 audit is the amount the City was required to contribute toward the EDA grant for the Hamilton Boulevard infrastructure. While assured "the money is there" by the previous administration, that money was not here, there, or anywhere. In order to complete the process for the EDA grant, the City was required to borrow the money (\$1,300,000.00) on a short-term basis by issuing bond anticipation notes. Again, this unexpected borrowing and the unexpected payments to pay that debt further depletes the City of Mitchell's financial ability to meet its obligations and provide services at an acceptable level.

The audit indicates that the City paid interest and penalties in early 2008 resulting from credit card purchases from October 3 to November 29, 2007. The current Clerk-Treasurer paid these charges because he had to opportunity to pay those credit card purchases before the balance was past due, resulting in the late fees and interest. The penalties and interest were added to this credit card account because the prior Clerk-Treasurer failed to pay the amount due on or before the due date, or left office in such disarray as to make it impossible for the current Clerk-Treasurer to pay the amount due before the due date. Although it was "only" \$126.31, the current Clerk-Treasurer is not responsible for the City's payment of penalties and interest on this account.

The 2007 audit, like the 2006 audit, indicates there were no official bonds for the City's financial officers. This is a repetitive item that the current Clerk-Treasurer corrected when he assumed office. He has an official bond and that bond is filed in the office of the Lawrence County Recorder as required by state law.

Another repetitive items from prior years' audits and included in the 2007 audit was the past practice of issuing payroll checks in advance, thereby preventing reconciliation of bank accounts in a timely manner. Again, this issue was corrected at the beginning of 2008. No payroll checks are issued in advance.

With respect to other payroll issued, the failure of the previous Clerk-Treasurer to withhold properly the Social Security taxes from employees in 2006 has resulted in more financial trouble for the City. In late 2008 the City paid those taxes, and now the City must collect those amounts from the employees who should have paid the taxes when due (withheld from each paycheck). For those who were (and remain) full-time employees, there is now an unexpected debt, causing an oppressive financial burden. For those who are no longer employed by the City, the City will likely be unable to collect on those debts, further draining the City's financial resources. Finally, beginning with the start of

compliance with state law and local ordinances. The City looks forward to the repayment by former City officials of the amounts indicated.

Perhaps the most distressing aspect of the 2007 audit results is the State Board of Accounts finding that the City ignored the corrections required as set forth in the 2006 audit. The State Board of Accounts found that the City failed to make the corrections to its records as it instructed the City to do when it completed its audit for 2006. Ignoring the details of the City's finances, especially when those finances have not been maintained according to the requirements of the law, was irresponsible behavior and that type of behavior will not occur in the future.

Finally, a fair reading of the 2007 audit strongly suggest that the City is at the brink of financial ruin because City officials, particularly its previous fiscal officers, failed to comply with state laws applicable to handling taxpayers' funds. This should not be. The 2007 audit describes compensation and benefits paid to former City officials without authorization, lack of bonding of the City's Clerk-Treasurer, overdrawn fund balances, misallocation of City funds, bank account reconciliations that were incorrect for many years, incurring debt for penalties and interest on credit cards, etc. Many of these specific items are repeated from the 2006 audit and perhaps from even earlier audits. The State Board of Accounts bears some degree of responsibility for these repetitive violations of law because there was no incentive for the City's former officials to comply with the law. By failing to impose any type of individual and personal penalties on those former officials, the State Board of Accounts simply perpetuated the problems. The City of Mitchell strongly urges the State Board of Accounts to review its processes and procedures so that it can prevent this and any other city or town from reaching the point where the City of Mitchell is today. In recognition of the State Board of Accounts which Comments that certain violations "could be an indicator of serious financial problems which should be investigated by the governmental unit," the City of Mitchell accepts the finding of the 2007 audit as true and is referring all discrepancies listed in the audit to the local prosecuting attorney for action or inaction as she deems appropriate.



Dan Terrell, Mayor  
City of Mitchell



State Board of Accounts  
302 Washington Street  
Room E 418  
Indianapolis, IN 46204-2765

RE: Official Response

I have attached my official response to the audit report for the City of Mitchell for the periods January 1, 2007 to December 31, 2007. Please review the information and include it in the official audit report. I would also like a response to the request I have made to immediately terminate the request for repayment based upon the information in my response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Kern', with a stylized flourish at the end.

Mark Kern

# Official Response to City of Mitchell 2007 Audit

## Penalties, Interest and Other Charges:

### Payroll Deductions:

The audit report states that penalties of \$1,683.32 and interest of \$2,107.27 were paid to the IRS for the period ending December 31, 2006. The cause of these issues are noted in the audit report under Payroll Deductions. This basically states that there was a computer error that occurred that caused the computer payroll system to calculate the social security with-holding for some employees incorrectly. Every single payroll check that is issued cannot be tested to confirm whether the computerized payroll system is working correctly. The reason to have a payroll system is for the reliability of calculating payroll with-holdings. This computer system calculates the social security with-holding automatically based upon the rate required by the IRS; this calculation is setup within the system by the software and cannot be changed by the operator. The auditor performing the review, Bill Brown, agreed with the fact that this random error was caused by some glitch in the computer system and not by myself. During a meeting I had with Bill Brown, the auditor performing the audit, and with Scott Shireman, Field Supervisor, it was acknowledged by auditor Bill Brown that I was not negligent in this matter. Mr. Shireman also advised that he had spoken to a representative with the IRS and discussed this matter with them. He advised that the IRS representative indicated that, based upon his information, if the IRS reviewed the matter they would likely refund the penalties because of the computer error. I was advised this is the avenue I should take. The problem is I no longer work for the City of Mitchell and have no authority to pursue this matter. It is my belief the City of Mitchell's current administration and the State Board of Accounts should work to resolve this issue.

I asked Bill Brown and Scott Sireman why, if this is clearly a computer error and I am not negligent in this matter, am I being asked to pay the penalties and interest in this matter. I was advised that this is the policy of the State Board of Accounts, not that it was state law but that it was the policy of the State Board of Accounts. Indiana Code 36-4-10-4.5 section C dealing with the performance of the fiscal officers duties clearly states the following. "(c) A fiscal officer is not liable in an individual capacity for an act or omission occurring in connection with the performance of the duties prescribed by subsection (b), unless the act or omission constitutes gross negligence or an intentional disregard of the fiscal officer's duties." It appears that the State Board of Accounts sets a policy that it follows no matter what the circumstances and without evaluating each case's facts. This policy is not consistent with the state law noted above and with the State Board of accounts manual that states "may be the personal obligation" which appears to mean that each case would have to be reviewed based upon the information available.

Based upon the information noted above it is clear that this matter is a computer error and that I am not negligent. I therefore request the repayment request by the State Board of Accounts for this matter totaling \$3,790.59 be immediately dropped.

# Official Response to City of Mitchell 2007 Audit

## Penalties, Interest and Other Charges:

## Compensation and Benefits:

The audit report indicates that I was overpaid \$1,762.57 at the time I left the city. This payment was made by appointed Clerk-Treasurer Kim Leonard for two weeks withholding that was withheld at the time I started the position in 1997. As I recall the policy at the time I took the position in 1997 was for two weeks of payroll to be withheld and then an employee would start his normal pay period with holding. These two weeks would be paid out to an employee at the time he left employment. Under this policy it could take up to four weeks for a new employee to receive a payroll check. I later changed this policy to a normal withholding period.

Auditor Bill Brown advised he did speak to other city employees who remember this policy and that in prior audit periods it was recognized that employees were paid back their two weeks' withholdings. These employees were not required to repay the two weeks with holdings to the city in previous audits.

The auditors, while performing the audit had access to all accounting records, yet did not confirm the withholding information, but instead just requested repayment. During a meeting with auditor Bill Brown and Scott Shireman, Field Supervisor, I discussed this information and was advised I would have to look into this matter and provide the information to them on the withholding. Once again, I do not work for the city and have no access to the information.

I believe that this payment was for withholding at the start of my employment and there is support for this as noted above. I would ask for the auditors to review the payroll files from this period and if they show information that contradicts my belief of the withholding issue I will repay the payment.

CITY OF MITCHELL  
SUMMARY

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Mark H. Kern, former Clerk-Treasurer:			
Penalties, Interest, and Other Charges, page 13	\$ 4,945.45	\$ -	\$ 4,945.45
Compensation and Benefits, pages 17 and 18	<u>1,762.57</u>	<u>-</u>	<u>1,762.57</u>
Totals for Mark H. Kern, former Clerk-Treasurer	<u>6,708.02</u>	<u>-</u>	<u>6,708.02</u>
Morris W. Chastain, former Mayor:			
Compensation and Benefits, page 17 and 18	872.00		
Paid by Morris W. Chastain, former Mayor			
February 23, 2009, Check No. 0128	<u>-</u>	<u>872.00</u>	<u>-</u>
Kim Leonard, former Clerk-Treasurer:			
Compensation and Benefits, page 17 and 18	<u>872.00</u>	<u>-</u>	<u>872.00</u>
Totals	<u>\$ 8,452.02</u>	<u>\$ 872.00</u>	<u>\$ 7,580.02</u>

AFFIDAVIT

STATE OF INDIANA       )  
                                  )  
washington COUNTY)

We, William A. Brown and Brandon L. Brough, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of the City of Mitchell, Lawrence County, Indiana, for the period from January 1, 2007 to December 31, 2007, is true and correct to the best of our knowledge and belief.

William A Brown, CPA  
[Signature]  
Field Examiners

Subscribed and sworn to before me this 12 day of February, 2009

[Signature]  
Clerk of the Circuit Court